



State of Utah

School and Institutional
TRUST LANDS ADMINISTRATION

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Salt Lake City, Utah 84102-2818
801-538-5100
801-355-0922 (Fax)
<http://www.trustlands.com>

Jon M. Huntsman, Jr.
Governor

Kevin S. Carter
Director

S/017/048
cc: Gary Ann
Daron
Doug

S/017/048
dillos
man

August 9, 2005

CERTIFIED MAIL #7160 3901 9842 1746 9076

Mr. Gary Burningham
Burningham Enterprises, Inc.
P.O. Box 974
95 North 20 East
American Fork, UT 84003

RE: NOTICE OF TRESPASS OF STATE TRUST LANDS
T37S, R5W, SLB&M, SECTION 6: W2SW4, GARFIELD COUNTY

Dear Mr. Burningham:

This letter gives Notice that Burningham Enterprises is in trespass of the State Trust Lands described above.

On February 11, 2005 the Trust Lands Administration issued Mineral Materials Permit ML 49699-MP to Burningham Enterprises covering state trust lands described as T37S, R5W, SLB&M, Section 6: SE4SW4, Garfield County. On March 18, 2005, Burningham Enterprises filed a Small Mine Notice of Intent (#S/107/048) with DOGM to commence mining operations upon W2SW4 of said Section 6. My letter of April 22, 2005 to Burningham Enterprises advised you that the Small Mine NOI filed with DOGM does not satisfy the 60-Day SITLA notification requirement contained within the terms and conditions of ML 49699-MP. My letter further listed ten issues or questions to be resolved before SITLA would approve Burningham's plan to operate upon trust lands. The first issue or question on the list was regarding the legal description (W2SW4) contained in the NOI filed with DOGM. I advised you that your SITLA minerals permit covers only the SE4SW4 of Section 6 and that no operations may be approved upon lands that are not contained within the SITLA minerals permit. You responded by letter dated May 22, 2005 and assured me that, "No operations will be included on the property not covered under ML 49699-MP."

Last week the Division of Oil, Gas & Mining visited your site of operations within Section 6 and made detailed measurements of the location of the mining disturbances. DOGM determined that your mining operation is in fact located within the W2SW4 of Section 6 rather than upon the lands within your SITLA minerals permit ML 49699-MP. Burningham Enterprises is therefore in trespass of state trust lands and in violation of section 53C-2-301 of the Utah Code.

Utah!

RECEIVED

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DIV OF OIL GAS & MINING

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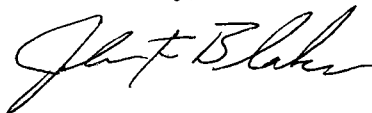
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Section 53C-2-301 provides that a person who without written authorization from the Director removes, extracts, uses, consumes or destroys any mineral resource on trust lands shall be liable for payment of damages in the amount of three times the consideration which would have been charged by the Director for use of the land during the period of trespass. The Trust Lands Administration only issues mineral material permits in quarter-quarter section (40 acre) increments at the rental rate of \$10.00 per acre. The site of the present trespass by Burningham Enterprises straddles two 40 acre parcels in SW4 of Section 6, or 80 acres, for a rental value of \$800.00. The amount of rental assessed @ three times the value is therefore \$2,400.00. The royalty value of the mineral substances removed is \$1.00 per ton, as established by the rate of royalty agreed upon by the permittee upon adjacent trust lands under ML 49699-MP. The amount of royalty assessed, with penalty, upon each and every ton of mineral materials mined in trespass is therefore \$3.00 per ton.

Burningham Enterprises is hereby instructed to immediately cease all mining and processing operations of minerals in the above described lands and to settle all trespass fees and penalties accruing to the trust in this matter within the next thirty (30) days. Settlement will require a complete accounting of all mineral materials and tonnages mined from the site. Interest penalties may apply after said thirty day period.

Prior to re-commencement of any mining activities in the lands currently under trespass, Burningham Enterprises must obtain a Mineral Materials permit from the Trust Lands Administration covering T37S, R5W, SLB&M, Section 6: W2SW4, Garfield County.

Sincerely,

A handwritten signature in cursive script, appearing to read "John T. Blake".

John T. Blake
Mineral Resources Specialist

CC: Tom Faddies
Michelle McConkie
Mary Ann Wright